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October 3, 2003

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.T.E. 03-60

Dear Secretary Cottrell:

On September 25, 2003, the Hearing Officer issued a Procedural Schedule that calls for Verizon Massachusetts (“Verizon MA”) to make its initial filing by November 13. The Procedural Schedule states that this filing should include an “identification of loop locations, transport routes and switching markets in which Verizon is contesting FCC determination of impairment (including economic and operational impairment)” as well as a batch hot cut proposal. I am writing to inform the Department of two matters relating to the schedule.

First, Verizon MA will be requesting in this proceeding that the Department consider impairment for loops, transport and mass market switching solely on the basis of the triggers set forth in the FCC’s rules adopted in the *Triennial Review Order*.¹ Verizon MA does not intend to contest the FCC impairment determination for loops, transport or mass market switching by making a “potential deployment” showing that addresses supposed operational or economic barriers in Massachusetts markets in the initial nine-

¹ The triggers that apply in these situations are defined in the FCC’s rules; Rule 319(a)(4)(ii) (DS1 loops); Rule 319(a)(5)(i) (DS3 loops); Rule 319(a)(6)(i) (dark fiber loops); Rule 319(d)(2)(iii)(A) (mass market switching); Rule 319(e)(1)(ii) (DS1 transport); Rule 319(e)(2)(i) (DS3 transport); Rule 319(e)(3)(i) (dark fiber transport); Rule 319(d)(iii)(A).

month case ordered by the FCC.² By limiting its case to the applicable triggers for network elements, which the FCC has identified as the “principal mechanism” for determining non-impairment, Verizon MA will significantly reduce the burden on the Department and the participants, thereby enabling the trigger analysis to proceed expeditiously and for the Department to conclude this case within a much shorter period than the nine months authorized by the FCC.³ As the FCC observed: “The use of triggers keyed to objective criteria can avoid the delays caused by protracted proceedings and can minimize administrative burdens.” *Triennial Review Order* at ¶ 498. Moreover, since trigger issues are conceptually simple and straightforward to resolve, the Department can substantially reduce the scope of discovery that it will issue, thus reducing the burden on all.

Second, the Procedural Schedule appears to require that Verizon MA’s initial filing consist only of an “identification” of locations, routes or switching markets in which it would contest the FCC’s finding of impairment. Verizon MA does not understand that the Department is looking for a mere listing of locations in the Company’s initial filing. Rather, Verizon MA believes that the Department intends the Company to present a complete case with supporting data and testimony that fully supports its claims that impairment does not exist for particular loop locations, transport routes, and switching markets. As noted above, Verizon MA’s case will be limited to establishing triggers for the applicable network elements and will address all relevant issues under the FCC’s rules associated with the application of triggers for those elements.

The manner in which Verizon MA intends to proceed is consistent with the Procedural Schedule and should not raise any concerns for other participants. Since Verizon MA will not contest the FCC’s determination of impairment on economic or operational grounds, the concern that some participants expressed about proceeding first with an examination of triggers to be followed, if necessary, with a broader economic and operational investigation – all of which would be completed in nine months – is

² Rule 319(a)(5)(ii)(potential deployment for DS3 loops); Rule 319 (a)(6)(ii)(potential deployment for dark fiber loops); Rule 319(d)(iii)(B)(potential deployment for switching); Rule 319(e)(2)(ii) (potential deployment of DS3 transport); Rule 319(e)(3)(ii) (potential deployment of dark fiber transport).

³ Although Verizon MA does not intend to contest the FCC’s impairment findings on economic or operational grounds in this nine-month proceeding, it expressly reserves the right to petition the Department at a later time as authorized by the FCC’s rules. *See e.g.*, Rule 319(d)(5)(ii).

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eliminated. And, once Verizon MA files its triggers case on November 13, the other participants will have a full and complete opportunity to challenge the Company's analyses.

Sincerely,

Bruce P. Beausejour

cc: Paula Foley, Esquire, Hearing Officer
Michael Isenberg, Esquire, Director-Telecommunications Division
April Mulqueen, Esquire, Assistant Director-Telecommunications Division
Peter Allen, Analyst
Berhane Adhanom, Analyst
Debra Conklin, Analyst
Ashish Shrestha, Analyst
Attached D.T.E. 03-60 Service List